

## REMARKS

By this amendment, Claims 1, 2, 5, 6 and 9 are amended, Claims 4 and 7 are canceled, and Claims 11-13 are newly added. Claims 1-3, 5, 6 and 8-13 remain pending in the application, with Claims 1 and 6 being the independent claims. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Kawai (U.S. Patent Application Publication No. 2003/015046 A1). Claims 3, 4, 8 and 9 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Kawai in view of Lee (U.S. Patent No. 6,393,279 B1). The cancellation of Claims 4 and 7 render these rejections moot with respect to these particular claims.

Applicant appreciates the indication by the Examiner that Claims 5 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

Kawai describes a communication apparatus, communication system and communication frequency setting method. The Examiner relies on FIGs. 2A, 2B, 4, element 83 of FIG. 4, and their associated descriptions of Kawai for anticipating Claims 1, 2, 6 and 7.

Claims 1 and 6 relate to a wireless communication device and method for selecting an operational frequency band, respectively. Claim 1 recites, in part, a comparison section for determining whether a received frequency is synchronized with spaced frequencies set in the frequency band used for the normal service operation and stored in the storage section, if the power is supplied, and a determining section for determining whether the synchronized frequency is included in the frequency band used for the normal service operation, if the received frequency is synchronized at least once with the spaced frequencies. Claim 6 includes similar recitations.

Kawai explains, in paragraph 45, how a setting part 31 of a wireless base station includes a channel setting part for setting a channel corresponding to one of plural communication frequency bands to enable the transmission and reception part to perform communications at a frequency of the channel thus set, a setting channel frequency storage part 32 for storing a

plurality of communication bands, a channel scanner 33, an SN ration detection part 34, an SN ratio and channel storage part 35, and a channel selection part 36. In paragraph 46, Kawai explains how the operating channel setting part 31 includes a comparator 38. Comparator outputs a channel change instruction to the channel selection part 36 when the SN ratio has been decreased from the prescribed set value by a level equal to or greater than a certain threshold. The channel selection part 36 selects the channel of the highest SN ratio from among those channels which are stored in the SN ratio and channel storage part 35 and which are not currently used, and sets the channel thus selected in the channel setting part 31.

In contrast, in the present invention, the comparison section determines whether a received frequency is synchronized with spaced frequencies set in the frequency band used for the normal service operation and stored in the storage section, and determines whether the synchronized frequency is included in the frequency band used for the normal service operation. Kawai nowhere teaches or reasonably suggests such a wireless communication device or method.

Furthermore, the present invention teaches storing a frequency band used for normal service operation, searching for and synchronizing the frequency band by using variable values. Contrary to the present invention, Kawai describes selecting a frequency band by using a signal to noise ratio.

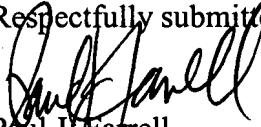
Accordingly, independent Claims 1 and 6 are allowable over Kawai.

While not conceding the patentability of the dependent claims, *per se*, Claims 2 and 11-13 are also be allowable for at least the above reasons.

Regarding Claims 3, 4, 8 and 9, Lee and the present application were, at the time the invention was made, commonly owned by Samsung Electronics Co., Ltd. Accordingly, Lee is not prior art against the present application, and the rejection of Claims 3, 4, 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Kawai in view of Lee is moot in view of 35 U.S.C. § 103(c).

Accordingly, all of the claims pending in the Application, namely, Claims 1-3, 5, 6 and 8-13 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

  
Paul J. Farrell  
Reg. No.: 33,494  
Attorney for Applicant

THE FARRELL LAW FIRM  
333 Earle Ovington Blvd., Suite 701  
Uniondale, New York 11553  
Tel: (516) 228-3565  
Fax: (516) 228-8475

PJF/TCS/dr